

ARKANSAS SUPREME COURT

No. CR 06-195

NOT DESIGNATED FOR PUBLICATION

JOHN C. MURDOCK
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered September 21, 2006

PRO SE MOTION FOR PERMISSION
TO FILE BELATED BRIEF [CIRCUIT
COURT OF FAULKNER COUNTY, CR
2005-503, HON. CHARLES EDWARD
CLAWSON, JR., JUDGE]

MOTION DENIED; APPEAL
DISMISSED

PER CURIAM

A judgment and commitment order entered July 15, 2005, indicates that appellant John C. Murdock entered guilty pleas to possession of paraphernalia to manufacture methamphetamine, possession of drug paraphernalia, and resisting arrest, and received an aggregate sentence of 240 months' imprisonment in the Arkansas Department of Correction. Appellant filed in the trial court a *pro se* motion to correct a clerical mistake in the order, which was denied. Appellant has now lodged an appeal of that order in this court.

Appellant's brief was due in this court on April 5, 2006. On April 6, 2006, appellant tendered his brief, which our clerk declined to file because it was not timely. On July 6, 2006, the State moved to dismiss the appeal on the basis that the brief had not been timely filed. On August 8, 2006, appellant filed this *pro se* motion seeking permission to file his brief belatedly. We granted the State's motion to dismiss the appeal pending our decision on appellant's motion for belated brief.

Now before us for consideration is appellant's motion.

In his motion, appellant argues that his brief was timely, asserting that he is incarcerated, and that he had placed it in the mail by the date due. He cites the "prison mailbox rule" and a case from the Supreme Court of Oklahoma in support of his argument. This court has previously declined to adopt the mailbox rule that is accepted in some courts, and which provides that a *pro se* inmate files his or her petition at the time the petition is placed in the hands of prison officials for mailing. *See, e.g., Hamel v. State*, 338 Ark. 769, 1 S.W.3d 434 (1999). An item tendered to a court is considered tendered on the date it is received and file marked by the clerk, not on the date it may have been placed in the mail.

Appellant's brief was not timely filed, and he has stated no good cause for his failure to comply with our procedure. Accordingly, we deny his motion and dismiss the appeal.

Motion denied; appeal dismissed.